

The Burger Court Opinion Writing Database

Bronston v. United States

409 U.S. 352 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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Please join me
M

To: Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall ✓
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

Circulated: _____

DEC 29 1972

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No. 71-1011

Samuel Bronston, Petitioner, } On Writ of Certiorari to
v. } the United States Court
United States. } of Appeals for the Sec-
} ond Circuit.

[January —, 1973]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted the writ in this case to consider a narrow but important question in the application of the federal perjury statute, 18 U. S. C. § 1621: ¹ whether a witness may be convicted of perjury for an answer, under oath, that is literally true but not responsive to the question asked and arguably misleading by negative implication.

Petitioner is the sole owner of Samuel Bronston Productions, Inc., a company that between 1958 and 1964, produced motion pictures in various European locations. For these enterprises, Bronston Productions, Inc., opened bank accounts in a number of foreign countries; in 1962, for example, it had 37 accounts in five countries. As

¹ 18 U. S. C. § 1621 provides:

"Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

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OFFICE OF THE CLERK OF THE SUPREME COURT

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To: Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall ✓
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

From: [illegible]

SUPREME COURT OF THE UNITED STATES

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JAN 8 1973

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BM
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

January 9, 1973

Re: No. 71-1011 - Bronston v. U. S.

MEMORANDUM TO THE CONFERENCE:

I will assume, unless I hear to the contrary,
that the above case may come down as scheduled tomorrow
with the amended footnote 3, page 4.

Regards,

WRB

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U.S. DEPARTMENT OF JUSTICE

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 2, 1973

Dear Chief:

Please join me in your opinion in
71-1011, Bronston v. U.S.

aw
William O. Douglas

The Chief Justice

cc: Conference
Law Clerks

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 3, 1973

Joined 1/3

RE: No. 71-1011 Bronston v. United States

Dear Chief:

I agree.

Sincerely,

Bill

The Chief Justice

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 2, 1973

Re: 71-1011, Bronston v. United States

Dear Chief,

I still wonder why we granted certiorari in this "sufficiency of the evidence" case. Furthermore, I am not enthusiastic about making perjury prosecution more difficult, since well deserved convictions are already hard enough to procure. But you have written a fine opinion and I shall acquiesce to it unless somebody else writes to the contrary.

Sincerely,

P.S.

The Chief Justice

Copies to the Conference

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U.S. DEPARTMENT OF JUSTICE

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 4, 1973

Re: No. 71-1011 - Bronston v. United States

Dear Chief:

Please join me in your opinion for this
case.

Sincerely,

By

The Chief Justice

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OFFICE OF THE CLERK OF THE SUPREME COURT

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL


January 3, 1973

Re: No. 71-1011 - Bronston v. U. S.

Dear Chief:

Please join me.

Sincerely,


T.M.

The Chief Justice

cc: Conference

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3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 8, 1973

Re: No. 71-1011 - Bronston v. United States

Dear Chief:

Please join me.

Sincerely,

H.A.B.

The Chief Justice

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 2, 1973

No. 71-1011 Bronston v. U. S.

Dear Chief:

Please join me.

Sincerely,

Lewis

Mr. Chief Justice

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 8, 1973

Re: No. 71-1011 - Bronston v. United States

Dear Chief:

I plan to join your opinion in this case, which I think does an excellent job of reflecting the Conference discussion. I do share some of the reservations which Potter expressed in his note to you, however, and wonder if you would consider adding to your footnote 3 on page 4, dealing with the District Court's hypothetical example given in its charge, a somewhat stronger indication that our decision in Bronston would not control the disposition of such a hypothetical fact situation.

Sincerely,

WM

The Chief Justice

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U.S. DEPARTMENT OF JUSTICE

3 W
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 9, 1973

Re: No. 71-1011 - Bronston v. United States

Dear Chief:

Your change in the footnote completely satisfies
my suggestion. Please join me.

Sincerely,
WHR

The Chief Justice

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